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IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH
NORTHERN DIVISION

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UNITED STATES OF AMERICA,	:	Civil Nos. 1:08 CV155 DS
Petitioner,	:	**REPORT AND RECOMMENDATION**
vs.	:	Honorable David Sam Magistrate Judge David Nuffer
TINA DENISE LOUISE THOMPSON,	:	
	:	
Respondent.		

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On December 12, 2008, the United States of America filed a petition to enforce its August

20, 2008 IRS Summons ("the Summons") pursuant to 26 U.S.C. §§ 7402(b) and 7604(a). Judge

Sam issued an Order to Show Cause ("OTSC") on December 16, 2008, which referred this matter

to the undersigned for a hearing scheduled for February 18, 2009.

The OTSC directed Respondent to file a written response supported by sworn affidavits to

the United States' Petition to Enforce the Summons ("the Petition") within ten days of the OTSC

being served upon her. The OTSC also directed the undersigned to convene a hearing on February

18, 2009 at 10:00 a.m. to hear any arguments that would assist the undersigned in determining

whether Respondent has shown cause as to why he should not be ordered to comply with the

Summons.

Prior to the February 18th hearing, the parties agreed to continue the matter believing that it could be fully resolved within 60 days. Consequently, this matter was continued until April 7, 2009.

At the April 7, 2009 hearing, the parties reported that this matter was not entirely resolved, although they remained hopeful that it soon would be. The parties agreed that the undersigned should enter this Report and Recommendation to the District Court recommending that Respondent have 30 days after the District Court adopts this Report and Recommendation to comply with the Summons.

After the arguments and representations made in the written submissions and at the April 7, 2009 hearing, I report the following:

1.   The United States has carried its burden of proof to enforce the Summons. Through the Summons and the declaration of the revenue officer that were attached to the Petition, the United States established that: (1) it sought the summoned information for a legitimate purpose, (2) the summoned information is relevant to the legitimate purpose, (3) the summoned information was not already in the possession of the United States; and (4) that the United States followed proper administrative procedures.

2.   Once the United States has established its initial burden of proof, the burden shifts to Respondent to show why he should not be compelled to comply with the Summons. Respondent has failed to show cause as to why he should not be ordered to comply with the Summons. In any event, Respondent agreed at the hearing to comply with the Summons.

Consequently, the undersigned recommends that:
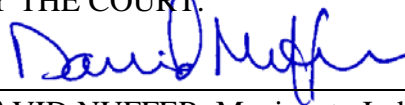
1.   The District Court find that Respondent has failed to show cause why he should not be compelled to comply with the Summons; and

2.   The District Court order Respondent to provide the information required by the Summons to the IRS no later than 30 days after the District Court adopts this Report and Recommendation.

Within 10 days after being served with a copy of this Report and Recommendation, a party may serve and file specific, written objections. A party may respond to another party's objections within 10 days after being served with a copy thereof. Pursuant to 28 U.S.C. § 636(b)(1)(C), the District Judge to whom this case is assigned shall make a *de novo* determination upon the record of any portion of the undersigned's disposition to which specific written objection has been made. The District Judge may accept, reject, or modify the recommended decision, receive further evidence, or re-commit the matter to the magistrate judge with instructions.

DATED this 23rd day of April 2009.

BY THE COURT:

DAVID NUFFER, Magistrate Judge
United States District Court